

**MANDATE**

04-10063  
USDC/MA  
Judge Lindsay

**United States Court of Appeals  
For the First Circuit**

No. 05-1019

UNITED STATES,

Appellee,

v.

NESTOR RODRIGUEZ,

Defendant, Appellant.

Before

Boudin, Chief Judge,  
Lynch and Lipez, Circuit Judges.

**JUDGMENT**

Entered: June 7, 2005

No objection to defendant's "Assented-To Motion for a Remand for Resentencing in Light of United States v. Booker" having been filed, the defendant's conviction is affirmed, his sentence is vacated, and the case is remanded for resentencing in light of United States v. Booker, 125 S. Ct. 738 (2005). We intimate no view as to whether the same or a different sentence should be imposed on remand.

By the Court:

Richard Cushing Donovan, Clerk.

**Certified and Issued as Mandate  
under Fed. R. App. P. 41.**

Richard Cushing Donovan, Clerk

*Susan Pedraza*  
Deputy Clerk

MARGARET CARTER

By: \_\_\_\_\_  
Chief Deputy Clerk.

Date: 6-28-05

[certified copies to: Hon. Reginald C. Lindsay and Sarah A.  
Thornton, Clerk]

[Syrie Fried, Esq., Peter K. Levitt, Esq. and Dina Michael  
Chaitowitz, Esq.]